

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

FILED-5  
NOV 16 4 AM 8:56  
DOROTHY BROWN  
CLERK OF CIRCUIT COURT  
LAW DIVISION

FARRELL LOEBBAKA, as Next of Kin and  
Special Administrator of the Estate  
of WAYNE LOEBBAKA, Deceased,

Plaintiff,

v.

FEDEX GROUND PACKAGE SYSTEM, INC.,  
a Corporation, and TERRY MILLIKAN,  
Individually and as Agent of FEDEX GROUND  
PACKAGE SYSTEM, INC., a Corporation,

Defendants.

No. 16 L 10170

NOTICE OF FILING

TO: Amanda Eggemeyer  
Wiedner & McAuliffe  
One North Franklin St.  
Suite 1900  
Chicago, Illinois 60606

PLEASE TAKE NOTICE that on November 4, 2016, there was filed with the  
Clerk of the Circuit Court of Cook County, Illinois, County Department, Law Division,  
**Plaintiff's First Amended Complaint at Law.**

ARGIONIS & ASSOCIATES, LLC  
Attorneys for Plaintiff  
180 N. LaSalle St. - Suite 1925  
Chicago, Illinois 60601  
Tel.: 312/782-4545  
Atty. No.: 44536

CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the code of Civil  
Procedure, the undersigned certifies that copies of the above and foregoing was served  
upon all persons to whom directed by depositing the same in the U.S. Mail located at 180  
N. LaSalle Street, Chicago, Illinois 60601 at or before 5:00 p.m. on November 4, 2016.

Under penalties as provided by law pursuant to  
735 ILCS 5/1-109, I certify that the statements  
set forth are true and correct.



EXHIBIT

1

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No. 16 L 10170

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a Corporation, and TERRY MILLIKAN,  
Individually and as Agent of FEDEX GROUND  
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Defendants.

FIRST AMENDED COMPLAINT AT LAW

COUNT I – NEGLIGENCE – WRONGFUL DEATH

NOW COMES the Plaintiff, FARRELL LOEBBAKA, as Next of Kin and Special Administrator of the Estate of WAYNE LOEBBAKA, Deceased, by and through his attorneys, ARGIONIS & ASSOCIATES, LLC and complaining of the Defendants, FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, and TERRY MILLIKAN, Individually and as Agent of FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, and each of them, alleges as follows:

1. On October 5, 2016, and for a long time prior thereto, the Defendant, FEDEX GROUND PACKAGE SYSTEM, INC., was conducting business in the City of Hickory Hills, County of Cook, and State of Illinois.

2. That on or about October 5, 2016, and for a long time prior thereto, the Defendant, TERRY MILLIKAN, was an agent, apparent agent, servant, and/or employee of FEDEX GROUND PACKAGE SYSTEM, INC.

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3. That on the aforesaid date, the Defendant, TERRY MILLIKAN, was operating a semi-truck in the capacity of agent, apparent agent, servant, and/or employee of the Defendant, FEDEX GROUND PACKAGE SYSTEM, INC., traveling westbound on 95th Street at or near the intersection with 76th Avenue in the City of Hickory Hills, County of Cook, and State of Illinois.

4. That on October 5, 2016, and at all relevant times, the Defendant, TERRY MILLIKAN, was acting within the course and scope of his agency, apparent agency and/or employment relationship with Defendant, FEDEX GROUND PACKAGE SYSTEM, INC.

5. On October 5, 2016, WAYNE LOEBBAKA, Deceased, was operating a motorcycle eastbound on 95th Street at or near the intersection with 76th Avenue in the City of Hickory Hills, County of Cook, and State of Illinois.

6. That at said time and place, a collision occurred between the semi-truck the Defendant, TERRY MILLIKAN, was operating and the motorcycle WAYNE LOEBBAKA, Deceased, was operating.

7. WAYNE LOEBBAKA died as a result of the collision between his motorcycle and the semi-truck of the Defendants on October 5, 2016.

8. That at all times mentioned herein, it was the duty of the Defendants, FEDEX GROUND PACKAGE SYSTEM, INC., and TERRY MILLIKAN, Individually and as Agent of FEDEX GROUND PACKAGE SYSTEM, INC., and each of them, to exercise ordinary care for the safety of WAYNE LOEBBAKA.

9. That the Defendants, and each of them, were then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- (a) Failed to yield the right of way to the motorcycle WAYNE LOEBBAKA was operating, in violation of 625 ILCS 5/11-902;
- (b) Failed to yield the right of way to oncoming traffic while making a left hand turn;
- (c) Failed to yield the right of way to oncoming traffic while making a left hand turn, in violation of 625 ILCS 5/11-902;
- (d) Made a left hand turn and failed to yield to Plaintiff's motorcycle which had the right of way, in violation of 625 ILCS 5/11-902;
- (e) Failed to yield to the Plaintiff's motorcycle which had the right of way on the roadway;
- (f) Drove said semi-truck at a speed which was greater than reasonable and proper, in violation of 625 ILCS 5/11-601;
- (g) Drove said semi-truck without brakes adequate to control its movement, and to stop and hold it, in violation of 625 ILCS 5/12-301;
- (h) Failed to give an audible warning with the horn on said semi-truck so as to give warning of its approach, in violation of 625 ILCS 5/12-601;
- (i) Failed to see and observe the motorcycle WAYNE LOEBBAKA was operating when it could and should have been seen and observed;
- (j) Failed to decrease the speed of said semi-truck so as to avoid colliding with the motorcycle in which WAYNE LOEBBAKA was operating;
- (k) Failed to stop said semi-truck in time to avoid said collision, although Defendants saw, or should have seen, that said collision was impending and Defendants had ample time and opportunity to avoid said collision;
- (l) Made a left-hand turn when it was impractical and unsafe to do so;
- (m) Failed to decrease speed while approaching said intersection when Defendants knew, or should have known, that oncoming traffic was still proceeding through the intersection;

- (n) Failed to keep a proper lookout for oncoming traffic when Defendants knew, or should have known, that oncoming traffic was still proceeding through the intersection;
- (o) Failed to decrease speed prior to making a left turn when the Defendants knew, or should have known, that oncoming traffic was still proceeding;
- (p) Drove said semi-truck with an inoperable left turn signal;
- (q) Failed to provide a left turn signal so as to give warning of the Defendant's intent to turn left in violation of 625 ILCS 11-804(a);
- (r) Failed to adequately reduce the speed of said semi-truck before turning;
- (s) Failed to adequately reduce the speed of said semi-truck before turning in violation of 625 ILCS 11-804(a) and 625 ILCS 5/12-601(a);
- (t) Failed to make a left turn in a reasonably safe manner;
- (u) Failed to make a left turn in a reasonably safe manner in violation of 625 ILCS 11-804(a);
- (v) Failed to keep said semi-truck under proper control;
- (w) Failed to keep a proper lookout for other traffic upon the roadway;
- (x) Was otherwise careless and/or negligent.

10. That the aforesaid careless and negligent acts and/or omissions of the Defendants, and each of them, were a proximate cause of said collision and WAYNE LOEBBAKA's death as hereinafter mentioned.

11. That WAYNE LOEBBAKA, Deceased, left as survivor his natural brothers, CHRISTOPHER LOEBBAKA, FARRELL LOEBBAKA, and JUSTIN LOEBBAKA. As a result of WAYNE LOEBBAKA's death, CHRISTOPHER LOEBBAKA, FARRELL LOEBBAKA, and JUSTIN LOEBBAKA, have sustained pecuniary loss as a result of WAYNE LOEBBAKA's death, including loss of his society, companionship, love and affection.

12. On October 14, 2016, FARRELL LOEBBAKA was duly appointed Special Administrator of the Estate of WAYNE LOEBBAKA.

13. On October 5, 2016, and for some time prior thereto, there was in full force and effect in the state of Illinois a certain Act, commonly known as the Wrongful Death Act, 740 ILCS 180/1-2 which provided in pertinent parts as follows:

“Whenever the death of a person shall be caused by wrongful act, neglect or default and the act, negligent or default is such as would, if death had ensued, have entitled the party injured to maintain an action and recover damages in respect thereof then and in every such case the person whom or company or corporation which would have been liable if death had ensued, shall be liable to an action for damages, notwithstanding the death of the person injured and although the death shall have been caused under such circumstances as amount in law to felon.” (740 ILCS 180/1).

“For every such action shall be brought by and in the names of the personal representatives of such deceased person, and , except as otherwise hereinafter provided, the amount recovered in every such action shall be for the exclusive benefit of the surviving spouse and next-of-kin of such deceased person and in every such action the jury may give such damages as they shall deem a fair and just compensation with reference to the pecuniary injuries resulting from such death, to the surviving spouse and next-of-kin of such deceased person.” (740 ILCS 180/2).”

WHEREFORE, the Plaintiff, FARRELL LOEBBAKA, as Next of Kin and Special Administrator of the Estate of WAYNE LOEBBAKA, Deceased, by and through his attorneys, ARGIONIS & ASSOCIATES, LLC, demands judgment against the Defendants, FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, and TERRY MILLIKAN, Individually and as Agent of FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, and each of them, in a dollar amount to satisfy the jurisdiction limitation of this Court and such additional amounts as the Jury and the Court shall deem proper, and additionally costs of said suit.

**COUNT II – NEGLIGENCE - PROPERTY DAMAGE**

NOW COMES the Plaintiff, FARRELL LOEBBAKA, as Next of Kin and Special Administrator of the Estate of WAYNE LOEBBAKA, Deceased, by and through his attorneys, ARGIONIS & ASSOCIATES, LLC and complaining of the Defendants, FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, and TERRY MILLIKAN, Individually and as Agent of FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, and each of them, alleges as follows:

1 – 9. Plaintiff realleges and reincorporates Paragraphs 1 – 9 of Count I as Paragraphs 1 – 9 of Count II.

10. That on or about October 5, 2016, WAYNE LOEBBAKA, Deceased, was the owner of a 2006 Suzuki GSX-R10000 involved in the collision.

11. That the aforesaid careless and negligent acts and/or omissions of the Defendants, and each of them, were a proximate cause of said collision and Plaintiff's property damages as hereinafter mentioned.

12. That as a direct and proximate result of one or more of the aforesaid careless and negligent acts and/or omissions of the Defendants, and each of them, the Plaintiff's motorcycle was greatly damaged, depreciated and reduced in value, and Plaintiff has been caused to expend, and/or become liable for, large sums of money as a result thereof. Further, Plaintiff was, for a long period of time, deprived of the use of said motor vehicle.



WHEREFORE, the Plaintiff, FARRELL LOEBBAKA, as Next of Kin and Special Administrator of the Estate of WAYNE LOEBBAKA, Deceased, demands judgment against the Defendants, FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, and TERRY MILLIKAN, Individually and As Agent of FEDEX GROUND PACKAGE SYSTEM, INC., a Corporation, in a dollar amount to satisfy the jurisdictional limitation of this Court and such additional amounts as the jury and the Court shall deem proper, and additionally, costs of said suit.

Respectfully Submitted,

ARGIONIS & ASSOCIATES, LLC

A handwritten signature in dark ink, appearing to read "G. Argionis", written over a horizontal line.

Attorney for Plaintiff

George Argionis  
Al Koritsaris  
Peter S. Coorlas, Jr.  
**ARGIONIS & ASSOCIATES, LLC**  
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Attorney No: 44536



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Defendants.

No. 16 L 10170

AMENDED AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222

The undersigned being duly sworn on oath hereby certifies pursuant to Supreme Court  
Rule 222 that:

1. I am the Plaintiff in the above-entitled action.
2. That I am filing an action for personal injuries with the belief that the total money  
damages of this claim as it presently stands will exceed the sum of \$50,000.00.

Further Affiant Sayeth Not.

*Farrell Loebbaka* by *Peter S. Coorlas, Jr.* His Attorney  
Farrell Loebbaka, as Next of Kin and Special Administrator of the Estate of  
Wayne Loebbaka, Deceased, by Peter S. Coorlas, Jr., his Attorney

SUBSCRIBED AND SWORN TO before



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